

MAILED

APR 28 2004

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**



UNITED STATES PATENT AND TRADEMARK OFFICE

**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE**

WASHINGTON, D.C. 2023

www.uspto.gov

**ARENT FOX KINTNER PLOTKIN & KAHN,
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036**

**Paper No: 22
Appeal No: 2004-1311
Appellant: GESSNER, RICK
Application: 09/162,735**

Board of Patent Appeals and Interferences Docketing Notice

Application 09/162,735 was received from the Technology Center at the Board on February 3, 2004 and has been assigned Appeal No: 2004-1311.

A review of the file indicates that the following documents have been filed by appellant:

**Appeal Brief filed on: March 17, 2003
Reply Brief filed on: None
Request for Hearing filed on: March 17, 2003**

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

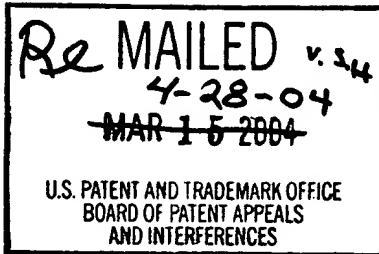
**BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450**

The facsimile number of the Board is 703-308-7952. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 703-308-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte RICK GESSNER

Application No. 09/162,735

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on February 3, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

On November 4, 2003, an Examiner's Answer was mailed (Paper No. 19). A review of the Examiner's Answer reveals that there is insufficient evidence that an appeals conference was conducted by the examiner. According to the Manual of

Application No. 09/162,735

Patent Examining Procedure (MPEP) § 1208 (8th ed., August 2001, Rev 1, Feb. 2003), the word "Conferees" must appear below the Primary Examiner's signature, followed by the Initials of the conferees. The initials may be either typed or printed. **These two appeal conference participants must place their initials next to their name.** This will make the record clear that an appeal conference has been held. This answer does not conform to the above requirement.

Accordingly, it is

ORDERED that the application is returned to the examiner

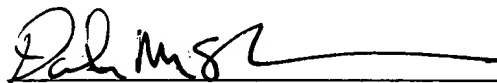
- (a) for the examiner to have the conferees appropriately sign/initial the Examiner's Answer to indicate that a conference was held,
 - (b) **notification to appellant in writing that the appeal conference was held,**
- and
- (c) for such further action as may be appropriate.

Application No. 09/162,735

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



DALE M. SHAW
Program and Resource Administrator
(703) 308-9797

cc: ERIK B. CHERDAK & ASSOCIATES L.L.C.
11300 ROCKVILLE PIKE
SUITE 906
ROCKVILLE, MD 20852

DMS/vsh
RA04-0308